IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 7074 of 2002

Between:

1 M.Jaya Satyawathi Devi W/o.Venkannadora
R/o.Visakhapatnam
2 K.Lakshmi Prasanna W/o.Satya Chakradhara Rao
R/o.Visakhapatnam.
3 E.Vijaya Lakshmi W/o.Pardhasaradhi
R/o.Visakhapatnam

..... PETITIONERS

AND

1 Government of Andhra Pradesh, Rep.by its Principal Secretary to Government,Revenue Registration Department, Secretariat Buildings Hyderabad.
2 Sub-Registrar, Gopalapatnam,Visakhapatnam Rep.by its Executive Officer.
3 Sri Varaha Lakshmi Narasimha Swamyvari Devasthanam Simhachalam, Visakhapatnam Rep.by its Executive Officer.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate order, direction or a Writ particularly one in the nature of the writ of Mandamus declaring that the respondents have no jurisdiction to interfere with ownership rights, tile and possession and enjoyment of the petitioners and her successors in interest in respect of land measuring Acs.7-04 cents in Survey No.275/F Adivivaram village of Visakhapatnam (Rural) Mandal, Visakhapatnam District including the rights of alienation and Registration of the documents under Registration Act, 1908.

Counsel for the Petitioner: MR.KOKA RAGHAVA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent No.3: MR.M.ADINARAYANA RAJU

The Court made the following :

ORDER:

The first petitioner and her two daughters invoke the jurisdiction of this Court under Article 226 of the Constitution of India. They seek a declaration that the action of the respondents especially the second respondent in not registering the sale deed submitted by the petitioners in respect of part of the land comprised in Patta No.243 corresponding to Survey No.275/F of Adivivaram village of Visakhapatnam District as illegal and arbitrary. They also seek a declaration that the respondents have no jurisdiction to interfere with the ownership, possession and title of the petitioner and that she has all rights including the right of alienation of the property in question.

Though the interlocutory applications being W.P.M.P.No.8860 of 2002 and W.V.M.P.No.3880 of 2003 are listed, with the consent of the learned counsel for the petitioners Sri Koka Raghava Rao and the learned counsel for third respondent Sri M.Adinarayana Raju as well as the Government Pleader, the matters are being disposed of at the interlocutory stage.

The first petitioner is wife of one Venkanna Dora and petitioners 2 and 3 are their daughters. The petitioners claim that the Raja of Vizianagaram Empire granted Patta No.243 on 10.07.1942 and since then the husband of the first petitioner was enjoying permanent occupancy rights. After the death of Venkanna Dora in 1984, it is alleged that the Mandal Revenue Officer (Rural), Visakhapatnam, under sub-section (3) of Section 3 of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short, the Act) passed orders on 10.07.1989 to the effect that the land belongs to the third respondent-Devasthanam as Inamdar and that the same is in effective possession of Venkanna Dora and his legal heirs with permanent occupancy rights by virtue of Patta No.243. It appears that the Commissioner, Endowments Department, Government of Andhra Pradesh issued orders vide G.O.Ms.No.275 dated 29.03.1993 according permission to Executive Officer of the third respondent for conveying malevaram rights in respect of land in Survey No.275/F subject to petitioners herein paying one-third of sale value or basic value of the register whichever is higher to the third respondent. Thereafter, the said amount was assessed and petitioners allegedly paid an amount of Rs.17,03,681/- (Rupees seventeen lakh three thousand and six hundred eighty one only). In the meanwhile, Urban Land (Ceiling and Regulation) Act, 1976 came into force and therefore the petitioners obtained the necessary clearance from the Special Officer of Urban Land Ceiling, Visakhapatnam agglomeration. The Executive Officer of the third respondent also issued 'No Objection Certificate' for conveying malevaram rights in favour of the first petitioner.

It is the case of the petitioners that after obtaining necessary clearances from the Urban Land Ceiling Authorities, Visakhapatnam, Urban Development Authority and third respondent as well, they submitted sale deeds to the second respondent in relation to twelve plots, which were duly registered. The petitioners again submitted two sale deeds on 02.02.2002 and two more sale deeds on 03.02.2002 to second

respondent for registration. The second respondent appears to have not passed any orders rejecting the sale deeds and therefore they filed the present writ petition. This Court while admitting the writ petition on 25.04.2002 passed interim orders directing the second respondent to register sale deeds presented by the petitioners. The third respondent has since come forward with an application for vacating stay.

The second respondent also filed a counter affidavit to the effect that as the third respondent has raised objections, the sale deeds were kept pending. Purporting to exercise powers under Section 22-A of the Registration Act, 1908, Government of Andhra Pradesh issued G.O.Ms.No.508 dated 28.07.2000 prohibiting registration of the land belonging to the third respondent.

In the counter affidavit filed on behalf of the Sri Varaha Lakshmi Narasimha Swamy Devasthanam, the third respondent herein, it is stated that the third respondent-Devasthanam is endowed with property situated in five villages including Adivivaram village to an extent of Acs.11,282.26 by erstwhile Maharajah of Vizianagaram Estate. The land is situated abutting Visakhapatnam Municipal Corporation Limits. The Settlement Officer declared the said lands as held by the third respondent. The said order has become final. The Mandal Revenue Officer also published a notice under Section 7(1) of the Act and the orders of the Mandal Revenue Officer have become final having been confirmed by this Court by order dated 28.09.2000 in W.P.M.P.No.32800 of 1997. As there is prohibition for the registration of the lands belonging to the third respondent in Adivivaram village, the second respondent cannot entertain any sale transaction for the registration.

The learned counsel for the petitioners submits that having regard to the G.O.Ms.No.275 dated 29.03.1993 as well as subsequent 'no objection certificate' issued by the Executive Officer of the third respondent-temple, there cannot be any objection for anybody for registering the land. Alternatively, it is submitted that when a sale deed is presented to the registering authorities, they have to pass orders on a request being made the reasons for non-registration to be communicated to the persons submitting the documents. As this action was not taken, memos to be issued to the second respondent to act in accordance with law.

Per contra, Sri M.Adinarayana Raju, learned counsel for the third respondent as well as Government Pleader would submit that as the Notification issued under Section 3 of the Act as well as the orders passed under Section 7(1) of the Act have become final, the petitioners cannot claim any title to the land. He would also urge that the Government would not have issued G.O.Ms.No.275 dated 29.03.1993 ignoring Section 80 of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987.

The core question that would arise for consideration is regarding the action or inaction of the second respondent in not passing any orders on these four sale deeds presented by the petitioners herein for registration.

This Court decided a similar question in W.P.No5861 of 2001 dated 14.03.2002. In the said case, the petitioner therein purchased plot No.72 from Sri Simhachalam Varaha Lakshmi Narasimha Employees Cooperative House Building Society. When

he approached the registering authorities for registration of the same, it was kept pending. Therefore, he approached this Court for a direction to the registering authorities for registering the document. Opposing this, reliance was placed on G.O.Ms.No.509 dated 28.07.2000 whereunder the Government of Andhra Pradesh prohibited registration of land endowed to third respondent in Vepagunta village and reliance was also placed under Section 71 of the Act, which deals with non-registration of the document. As and when the Sub Registering Officer or any registering authority is unable to register a document, he has to record reasons and on a request being made has to furnish the reasons to the person presenting the document. Any person aggrieved by non-registering document may have a right of Appeal to the District Registrar under Section 72 of the Registration Act, 1908. Having regard to this legal position, this Court disposed of the writ petition above mentioned directing the Sub Registrar to furnish a copy of the reasons for non-registration of the sale deed presented by the petitioner.

In view of the judgment of this Court referred to hereinabove, the second respondent is bound to record reasons and furnish a copy thereof to the petitioners herein. Therefore without expressing any opinion as to the right of the petitioners, the matter is disposed of directing the second respondent to furnish a copy of the reasons for non-registration to the petitioners immediately. It shall be open to the petitioners to avail the remedies under Registration Act as referred to hereinabove. It is always open to the third respondent also to approach the Sub Registrar. It is made clear that any observation made hereinabove, is having regard to the context and never intended either to deny or confirm a title claimed by the rival parties.

The writ petition is accordingly disposed of.

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(V.V.S.RAO,J)

19.07.2004.

pln

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary to Government, Revenue Registration Department, Government of Andhra Pradesh, Secretariat Buildings, Hyderabad.

2. The Sub-Registrar, Gopalapatnam, Visakhapatnam District.

3. The Executive Officer, Sri Varaha Lakshmi Narasimha Swamyvari Devasthanam, Simhachalam,Visakhapatnam.

4. 2 CCs to the G.P.for Revenue, High Court Buildings, Hyderabad (OUT).

5. 2 CD copies.